IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 315 (S/S) 2004

Smt. Asha Devi W/o Late Baldeo Prasad,
R/o Bell Road, Clement Town, Dehradun. .....Petitioner.

Versus

1. State of Uttarakhand through Secretary,
   Department of Food & Civil Supplies, Dehradun,
2. Regional Food Controller, Garhwal Region, Dehradun,
3. State of U.P., through Secretary,
   Ministry of Food & Civil Supplies,
   Lucknow. .....Respondents.

Sri M.C. Pant, learned Counsel for the petitioner,
Sri Subhash Upadhyay, learned Standing Counsel for State of Uttarakhand,
None is for respondent no.3.

Hon'ble M.M. Ghildiyal, J.

Heard Sri N.K. Papnio, holding brief of Sri M.C. Pant, learned counsel for the petitioner and Sri Subhash Upadhyay, learned Standing Counsel for the State of Uttarakhand/ respondent nos. 1 & 2 .None is present for the State of U.P.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

a. Issue a writ, rule or direction in the nature of mandamus commanding to the respondents to allow the petitioner the benefit of family pension, gratuity and amount of group insurance alongwith all arrears together with interest of 18% on the same till the actual payment is made,
b. Issue any other direction or order as this Hon'ble Court may deem fit and proper under the circumstances of the case,
c. Award costs of the writ petition to the petitioner.

The stand of the petitioner is that her husband was appointed as Godown Chaukidar with the respondent's Department in the year 1960 and was expired on 31st July 1977 after completion of 17 years' service.

The petitioner, by means of this writ petition has claimed for family pension.

The respondent no.2 has filed counter affidavit. Para-4 of the counter affidavit is quoted below:-

"That in the year 1992 (29th February 1992) a letter was written by the Chief Account Officer, Uttar Pradesh to the Regional Food Controller, Agra by which it was specified that as per the relevant Government Orders, the post of Godown Chaukidar shall be pensionable from 23rd September 1982 and the service rendered by the Godown Chaukidar prior to 23rd September 1982 is not pensionable. As the husband of the petitioner died in the year 1977 as such he is not entitled for the pension."

It is not disputed that the husband of the petitioner was expired in the year 1977. The post on which the husband of the petitioner was working became pensionable w.e.f. 23rd September 1982. The petitioner has not contravened the averments made by the respondent in para-4 of the counter affidavit. Thus, keeping in view the averments made in para-4 of the counter affidavit, the petition lacks merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

February 27, 2007:
NCM: